

**DERIENZO & WILLIAMS, P.L.L.C.**  
State Bar #00510200  
3681 N. ROBERT ROAD  
PRESCOTT VALLEY, AZ 86314  
TEL.: (928) 759-5572  
FAX: (928) 759-5573  
Craig Williams  
Attorney for Defendant

SUPERIOR COURT  
2011 AUG -8 PM 5:02  
SANDRA K HARKNAH, CLERK  
BY: Kelly Gresham

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF YAVAPAI**

**STATE OF ARIZONA,**

**Plaintiff,**

**vs.**

**STEVEN DEMOCKER,**

**Defendant**

**P1300CR201001325**

**REQUEST FOR DEPOSITION:  
Detective Doug Brown**

**(Hon. Warren Darrow)**

The Defendant, by Counsel undersigned, requests that this Court order Detective Doug Brown, Yavapai County Sheriff's Office, to participate in a Deposition. During the Defense interview on, June 15, 2011, the state prevented Detective Brown from answering question regarding how the DNA biological sample Item #603 got under the fingernails of the victim, Carol Kennedy.

This Request is made pursuant to Rules 15.3(a)(1) and 19.3(b), Arizona Rules of Criminal Procedure, and Kirkendall v. Fisher, 27 Ariz.App. 210, 553 P.2d 243 (1976).

"According to Rule 15.3, a court may order the deposition when '[a] party shows that the person's testimony is material to the case ... and that he will not cooperate in granting a personal interview.' Rule 15.3(a)(2), Arizona Rules of Criminal Procedure."

"A witness is uncooperative within the meaning of Rule 15.3 when the witness attaches such conditions to an interview that 'it makes the situation untenable for defense counsel to discover needed material.'"

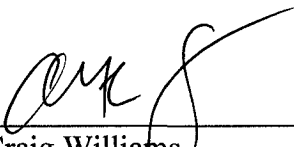
Arcaris v. Superior Court, 160 Ariz. 533, 534, 774 P.2d 837, 838 (Ariz.App.,1989), citing

Kirkendall, at 245.

The fact that DNA from a previous autopsy was found under the victim's fingernails is a vital area for pre-trial discovery. Information regarding the identity of biological DNA sample Item #603 was not available during the previous trial, and therefore the Defense had no prior opportunity to ask Detective Brown these questions. The state's theory of *how* that biological material got there is a proper subject for discovery.

The Defense request that the deposition be held at the Defense Attorney's office, and Lott Reporting be the reporter.

RESPECTFULLY SUBMITTED this August 8, 2011.

  
\_\_\_\_\_  
Craig Williams  
Attorney for the Defendant

Copies of the foregoing faxed / mailed / or delivered this date to:

Copies of the foregoing delivered this date to:

Hon. Warren Darrow, Judge of the Superior Court  
Jeff Paupore, Steve Young, Yavapai County Attorney's Office  
The Defendant

By:  \_\_\_\_\_